

ORDINANCE NO. 2018-4

**AN ORDINANCE OF THE VILLAGE OF KEY BISCAYNE,
FLORIDA AMENDING CHAPTER 9, “EMERGENCY
MANAGEMENT” RELATING TO DEBRIS REMOVAL
FROM PRIVATE PROPERTY; PROVIDING FOR
SEVERABILITY; PROVIDING FOR CODIFICATION;
PROVIDING FOR CONFLICTS; AND PROVIDING FOR
AN EFFECTIVE DATE.**

WHEREAS, the Village of Key Biscayne (the “Village”) has experienced hurricanes and other storm related events that have resulted in widespread debris on private property, including on private roads and right of way; and

WHEREAS, such disaster-generated debris on private property may result in significant safety issues, including, but not limited to, impeding the access of essential public safety services and presenting a risk of debris becoming airborne causing additional damage to property during subsequent storms; and

WHEREAS, if debris on private property is not timely removed such debris may result in significant health issues by providing a breeding ground for the spread of diseases and acting as a wet receptor for mosquitos and other arthropods carrying viruses, including, but not limited to, the Zika virus; and

WHEREAS, in order to safeguard the life and property of the citizens of the Village, the Village Council finds that it is in the public interest to establish a disaster-generated debris removal process for private property; and

WHEREAS, the Village Council finds that adoption of this Ordinance is necessary for the preservation of the public health, safety and welfare of the Village and its residents.

NOW, THEREFORE, BE IT ORDAINED BY THE VILLAGE COUNCIL OF THE VILLAGE OF KEY BISCAYNE, FLORIDA, AS FOLLOWS: ¹

Section 1. Recitals Adopted. That the above-stated recitals are hereby adopted and confirmed.

Section 2. Amending Chapter 9 of the Village Code. That Chapter 9 “Emergency Management” of the Code of Key Biscayne, Florida is hereby amended as follows:

Chapter 9 – EMERGENCY MANAGEMENT.

¹ Coding: ~~Strikethrough words~~ are deletions to the existing words. Underlined words are additions to the existing words. Changes between first and second reading are indicated with **highlight**.

Sec. 9-1. - Definitions.

As used in this chapter:

Debris shall mean to include, but is not limited to, vegetative debris, construction and demolition debris, sand, mud, silt, gravel, rocks, boulders, and vehicle and vessel wreckage.

Duplication of Benefits shall mean funding received from two sources for the same item of work.

Private property shall mean all property that is not owned or controlled by a governmental entity.

Sec. 9-13. – Private Debris removal from Private Property.

The Village Manager may authorize removal of Debris from Private Property only during a declared Village state of emergency. Prior to the removal of Debris from Private Property, the Village Manager shall determine that: (1) the severity of the situation is of such magnitude or the Debris is so widespread that removal is in in the public interest; and (2) the Debris constitutes an immediate threat to life, public health, or safety, or to the economic recovery of the Village at large.

Sec. 9-14. – Gated Private Property.

In the event of a declared Village state of emergency, gated Private Property must provide reasonable access for emergency vehicles and any Debris removal vehicles and personnel. If the gates are unable to be opened for emergency access, then the entrance gates are required to be secured in the open position to allow for access during the emergency event.

Sec. 9-15. – Right of entry, indemnification and hold harmless, no duplication of benefits agreement.

Prior to removal of Debris by the Village from Private Property, the property owner(s), community association(s), homeowner association(s) and/or governance board(s) shall execute a right of entry, indemnification and hold harmless, and no Duplication of Benefits agreement on a form approved by the Village Attorney.

Sec. 9-16. – Emergency roadway clearance.

Nothing in this chapter shall preclude a first response by the Village to clear and push Debris from private roadways and rights-of-way as necessary for the movement of emergency vehicles, including police, fire, ambulance and other emergency responders.

Sec. ~~9-13~~ 9-17. - Penalty.

Section 3. Severability. That the provisions of this Ordinance are declared to be severable and if any section, sentence, clause or phrase of this Ordinance shall for any reason be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections, sentences, clauses, and phrases of this Ordinance but they shall remain in effect, it being the legislative intent that this Ordinance shall stand notwithstanding the invalidity of any part.

Section 4. Codification. That it is the intention of the Village Council and it is hereby ordained that the provisions of this Ordinance shall become and be made a part of the Village's Code of Ordinances, and that the sections of this Ordinance may be renumbered or relettered to accomplish such intentions, and that the word Ordinance shall be changed to Section or other appropriate word.

Section 5. Conflicts. That all ordinances or parts of ordinances, resolutions or parts of resolutions, in conflict herewith, are repealed to the extent of such conflict.

Section 6. Effective Date. That this Ordinance shall become effective immediately upon adoption on second reading.

PASSED on first reading this 24th day of April, 2018.

PASSED AND ADOPTED on second reading this 5th day of June, 2018.

ATTEST:


JENNIFER MEDINA, CMC
VILLAGE CLERK




MAYOR MAYRA PENA LINDSAY

APPROVED AS TO FORM AND LEGAL SUFFICIENCY

A handwritten signature in blue ink, appearing to read "Ch. H. ...", positioned above a horizontal line.

VILLAGE ATTORNEY

MIAMI DAILY BUSINESS REVIEW

Published Daily except Saturday, Sunday and
Legal Holidays
Miami, Miami-Dade County, Florida

STATE OF FLORIDA COUNTY OF MIAMI-DADE:

Before the undersigned authority personally appeared JOHANA OLIVA, who on oath says that he or she is the LEGAL CLERK, Legal Notices of the Miami Daily Business Review f/k/a Miami Review, a daily (except Saturday, Sunday and Legal Holidays) newspaper, published at Miami in Miami-Dade County, Florida; that the attached copy of advertisement, being a Legal Advertisement of Notice in the matter of

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in the XXXX Court,
was published in said newspaper in the issues of

05/25/2018

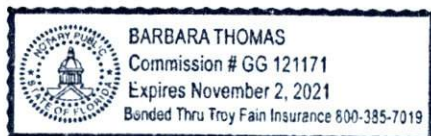
Affiant further says that the said Miami Daily Business Review is a newspaper published at Miami, in said Miami-Dade County, Florida and that the said newspaper has heretofore been continuously published in said Miami-Dade County, Florida each day (except Saturday, Sunday and Legal Holidays) and has been entered as second class mail matter at the post office in Miami in said Miami-Dade County, Florida, for a period of one year next preceding the first publication of the attached copy of advertisement; and affiant further says that he or she has neither paid nor promised any person, firm or corporation any discount, rebate, commission or refund for the purpose of securing this advertisement for publication in the said newspaper.

Johana Oliva
Sworn to and subscribed before me this
25 day of MAY, A.D. 2018

Barbara Thomas

(SEAL)

JOHANA OLIVA personally known to me



VILLAGE OF KEY BISCAYNE OFFICE OF THE VILLAGE CLERK PUBLIC NOTICE

Notice is hereby given that the following ordinance will be considered on Second Reading by the Village Council of the Village of Key Biscayne at a meeting to be held on Tuesday, June 5, 2018 at 6:00 p.m., in the Council Chamber, located at 560 Crandon Boulevard, Key Biscayne, Florida:

AN ORDINANCE OF THE VILLAGE OF KEY BISCAYNE, FLORIDA AMENDING CHAPTER 9, "EMERGENCY MANAGEMENT" RELATING TO DEBRIS REMOVAL FROM PRIVATE PROPERTY; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; PROVIDING FOR CONFLICTS; AND PROVIDING FOR AN EFFECTIVE DATE.

The proposed Ordinance may be inspected by the public at the Office of the Village Clerk. Interested parties may appear at the Public Hearing and be heard with respect to the proposed Ordinances. Any person wishing to address the Village Council on any item at this Public Hearing is asked to register with the Village Clerk prior to that item being heard.

In accordance with the Americans With Disabilities Act of 1990, all persons who are disabled and who need special accommodations to participate in this proceeding because of that disability should contact the Office of the Village Clerk, 88 West McIntyre Street, Suite 220, Key Biscayne, Florida 33149, telephone number (305) 365-5506, not later than two business days prior to such proceeding.

Should any person desire to appeal any decision of the Village Council with respect to any matter to be considered at this meeting, that person shall insure that a verbatim record of the proceedings is made including all testimony and evidence upon which any appeal may be based (F.S. 286.0105).

Comments of any interested party relative to this matter may be submitted in writing and or presented in person at the public hearing.

Jennifer Medina, CMC
Village Clerk
18-95/0000321799M

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